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Fax Cover Sheet

Date: 25 Feb 2005

To: Paul Lim	**From:** Mary E. Mosher, Ph.D.
Application/Control Number: 09/980 :68	**Art Unit:** 1648
Fax No.: (212) 808-0844	**Phone No.:** 571-272-0906
Voice No.: 212-808-0700	**Return Fax No.:** (703) 872-9306
Re:	**CC:**

☐ **Urgent** ☐ **For Review** ☐ **For Comment** ☐ **For Reply** ☐ **Per Your Request**

Comments:
Draft of examiner's amendment

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To: Paul Lim	**From:** Mary E. Mosher, Ph.D.
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Number of pages 7 including this page

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with FILL IN on FILL IN.

The application has been amended as follows:

The claims have been amended as shown on the attached listing.

The following is an examiner's statement of reasons for allowance:

The 12/28/2004 amendments to the claims overcame the rejections based on prior art and on lack of description and enablement, and improved the clarity of the claims, but did not place the claims in condition for allowance. As presented in the amendment filed 12/28/2004, claim 1 introduced new matter in the recitation of "a substituted or unsubstituted amino group" in the definition of Rn and "a carboxyl group or an ester or amide thereof" in the definition of Rc. Also, with the removal of the truncation language from claim 1, claim 2 was now drawn to subject matter outside the scope of amended claim 1.

Claim 1 has been rewritten as new claim 17, removing the new matter and adding the claim 2 peptides to the Markush group. The claim language has also been

rearranged to more clearly communicate the meaning of "derivatives" included in the scope of the claimed peptide, and to more clearly communicate the meaning of the R groups.

Claim 2 has been rewritten as claim 18. Claims 8 and 9 were rewritten as claims 19 and 20. Claim 7 was not included in the rewrite; once the new matter was removed from the base claim, claim 7 conferred no further limitation. Claims 12 and 13 were rewritten as claims 21 and 22, with modifications to clarify the claim, particularly to relate the active steps to the claim preamble. Claims 14 and 15 were rewritten as claims 23 and 24.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary E. Mosher, Ph.D. whose telephone number is 571-272-0906. The examiner can normally be reached on M-T and alternate F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on 571-272-0902. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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DRAFT

Listing of Claims:

1-16 (cancelled)

17. (New) An isolated and purified peptide selected from the group consisting of:

R_N - Ala Arg Ala Lys Lys Asp Glu Leu Arg Arg Lys Met Met Tyr Met- R_C (SEQ ID No.2),

R_N - Asp Glu Leu Arg Arg Lys Met Met Tyr Met- R_C (SEQ ID No. 3),

R_N - Glu Leu Arg Arg Lys Met Met Tyr Met- R_C (SEQ ID No. 9),

R_N - Asp Glu Leu Arg Arg Lys Met Met Tyr - R_C (SEQ ID No. 10),

R_N - Asp Glu Leu Arg Arg Lys Met Met Tyr Met - R_C (SEQ ID No. 14), and

derivatives of R_N - Ala Arg Ala Lys Lys Asp Glu Leu Arg Arg Lys Met Met Tyr Met- R_C (SEQ ID No.2) having a substitution of one, two or three amino acids;

wherein R_N represents -H or an amino protective group, Rc represents -OH or a carboxy protective group, and said peptide has the ability to induce the production of interferon-γ or TNF-α in CD8+ T cells.

18. (New) The peptide according to claim 17 having the sequence

R_N- Ala Arg Ala Lys Lys Asp Glu Leu Arg Arg Lys Met Met Tyr Met R_C (SEQ ID No.2),

R_N - Asp Glu Leu Arg Arg Lys Met Met Tyr Met- R_C (SEQ ID No. 3),

R_N - Glu Leu Arg Arg Lys Met Met Tyr Met- R_C (SEQ ID No. 9),

R_N - Asp Glu Leu Arg Arg Lys Met Met Tyr - R_C (SEQ ID No. 10), or

R_N - Asp Glu Leu Arg Arg Lys Met Met Tyr Met - R_C (SEQ ID No. 14).

19. (New) The peptide according to claim 17 wherein R_N represents -H or an acyl group and R_C represents -OH or an amino group.

20. (New) The peptide according to claim 19, wherein R_N represents -H and R_C represents -OH.

21. (New) Method for identifying a cellular immune system response against HCMV, said method comprising:

a) incubating T-cells with a peptide according to claim 17; and

b) detecting whether incubation has resulted in the production of interferon-γ or TNF-α in CD8+ T cells,

wherein production of interferon-γ or TNF-α in the CD8+ T cells identifies a cellular immune system response against HCMV.

22. (New) Method for quantifying a response of the cellular immune system against HCMV, said method comprising:

a) incubating T-cells with a peptide according to claim 17; and

b) detecting the number of CD8+ T cells that have been induced to produce interferon-γ or TNF-α,

wherein the number of induced CD8+ T cells quantifies a cellular immune system response against HCMV.

23. (New) An isolated or purified DNA which codes for a peptide according to claim 17.

24. (New) A plasmid or vector comprising a DNA according to claim 23.